

REMARKS

Claims 1, 4-10, 12, 14, and 24-28 are pending. Claim 27 is amended to resolve the Examiner's assertion that the previous amendment to Claim 27 raised new issues under 35 U.S.C. 112, 2nd Paragraph, lack of antecedent basis. While not agreeing with the grounds for the rejection (Applicant respectfully submits that previous claim 27 was not indefinite as, "the scope of a claim would [have been] reasonably ascertainable by those skilled in the art") Applicant has, nevertheless, amended such claim to recite "with desaturase activity" as suggested by the Examiner. *See Energizer Holdings Inc. v. Int'l Trade Comm'n*, 435 F.3d 1366, 77 USPQ2d 1625 (Fed. Cir. 2006). Support for the amendment of Claim 27 can be found at least in Claim 1 as originally filed. Claims 2, 3, 11, 13, 15-23, 29, and 30 have been canceled.

Entry and reconsideration of the instant claim amendments is respectfully requested as the instant claim amendments place the application in condition for allowance and/or in better format for Appeal and/or further limit issues which may be raised on appeal.

Applicants respectfully submit that the instant amendments were not previously submitted as the issues addressed by the amendments were only raised for the first time in the Final action. Accordingly, Applicants could not have made the requisite claim amendments obviating the issues at an earlier stage in the proceedings. Additionally, the instant claim amendments merely obviate the issues newly raised by the Examiner and do not change the scope of the claims or add new matter which would necessitate further substantial examination and/or search by the Examiner.

In view thereof, favorable action is respectfully requested.

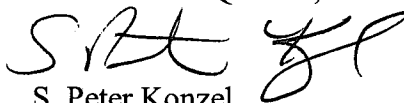
CONCLUSION

In view of the foregoing, Applicant respectfully submits that claims 1, 4-10, 12, 14, and 24-28 define subject matter that is patentable over the prior art and is in immediate condition for allowance. Further and favorable reconsideration of this application and the issuance of a Notice of Allowance are requested. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 14-1437. Please credit any excess fees to such deposit account.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'S. Peter Konzel', is written over the printed name.

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